

REMARKS

Claims 1-17 remain pending in the present application. Claim 1 has been amended. Basis for the amendments can be found throughout the specification, claims and drawings as originally filed.

REJECTION UNDER 35 U.S.C. § 102

In the Final Rejection mailed January 25, 2005, Claims 1-3, 5 and 6 were rejected under 35 U.S.C. § 102(b) as being anticipated by Vermolen, et al.

Claim 1 has been amended to define that the aperture extends through the membrane. Claim 1 also defines that a specified amount of fluid flow between the first chamber and the second chamber when the membrane is in the second position. In addition, the second position has been defined as being closed to prevent fluid flow through the fluid passage.

As stated on page 12 of the Decision on Appeal, "We agree with appellants' (brief, page 8) that in figure 3 of Vermolen, aperture 106 is aligned with aperture 98, allowing fluid to flow into chambers 112 and 110, but that there is nothing in Vermolen which defines aperture 106 as being open to anything but aperture 98. We add that, as shown in figure 3 of Vermolen, fluid can flow through aperture 106 into chambers 112 and 110. However, the fluid would not be flowing through aperture 98 to chamber 102 and aperture 94 through aperture 106 because it is flowing through aperture 106 into chamber 112 and not into chamber 102." (emphasis added) Also, as stated in the decision, it was noted that applicants did not define the aperture as extending through the membrane (page 7, lines 18, 19; page 11, lines 9, 10; page 10, lines 16-18).

Applicants therefore believe that this added limitation to Claim 1 distinguishes over the Vermolen, et al. reference.

In addition, the decision on page 7, lines 15-18 defines the term closed as referring to a restriction of the fluid passage that permits a specified amount of fluid flow. Applicants therefore believe that the added limitation to Claim 1 redefines the term closed in order to distinguish over Vermolen, et al. since as stated in the Decision on page 13, the Board found no convincing evidence in Vermolen, et al. and no passage was pointed out that would describe restriction 108 as being closed.

Thus, Applicants believe Claim 1, as amended, patentably distinguishes over the art of record. Likewise, Claims 2, 3, 5 and 6, which ultimately depend from Claim 1, are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 103

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Vermolen, et al. in view of de Molina. Claim 4 ultimately depends from Claim 1. As stated above, Claim 1 has been amended and is now believed to patentably distinguish over the art of record. Thus, Claim 4 is also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

ALLOWED CLAIMS

Claim 7-17 were allowed.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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